



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
-----------------	-------------	----------------------	---------------------	------------------

10/621,227

07/15/2003

Joel K. Young

977.056US1

1216

21186

7590

05/01/2009

SCHWEGMAN, LUNDBERG & WOESSNER, P.A.

P.O. BOX 2938

MINNEAPOLIS, MN 55402

EXAMINER

INGVOLDSTAD, BENNETT

ART UNIT

PAPER NUMBER

2427

MAIL DATE

DELIVERY MODE

05/01/2009

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

<p align="center">Advisory Action Before the Filing of an Appeal Brief</p>	<p>Application No. 10/621,227</p>	<p>Applicant(s) YOUNG, JOEL K.</p>	
	<p>Examiner Bennett Ingvaldstad</p>	<p>Art Unit 2427</p>	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 09 April 2009 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: _____.
Claim(s) objected to: _____.
Claim(s) rejected: 1,2 and 5-31.
Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Continuation Sheet.
12. ☐ Note the attached Information *Disclosure Statement*(s). (PTO/SB/08) Paper No(s). _____.
13. ☐ Other: _____.

/Scott Beliveau/
Supervisory Patent Examiner, Art Unit 2427

/Bennett Ingvaldstad/
Examiner, Art Unit 2427

Continuation Sheet

Applicant traverses the rejections, arguing that the SMIL specification “relates to an XML-based language that allows authors to write interactive multimedia presentations,” which is different from a playlist for a remote device. Remarks at 7. However, the SMIL specification has utility for creating a playlist: see the cited XML code playlist in section 11.1.1 of the SMIL specification. Since Belknap already teaches a playlist for a remote device (see Fig 32), it is clear that the combination provides for a playlist from a remote device.

Applicant further argues against the combination of Belknap and the SMIL spec., stating that a simple substitution of Belknap’s playlist format for the SMIL playlist format “would not facilitate the delete, copy, multicasting, and encoding operations required by the process of managing media data of Belknap.” Remarks at 8. However, a playlist is an ordering of videos for playback; it does not facilitate delete, copy, multicasting, and encoding operations. Therefore, replacing Belknap’s simple playlist 1208 (Fig 32) with a more complex playlist according to the SMIL format would have no bearing on any delete, copy, multicasting, or encoding operations, since those functions are performed by other processes than a playlist.

Applicant further argues against the combination of Belknap and Zhu, stating that Belknap teaches an administrator that configures video content to be pushed to a client, whereas Zhu teaches an owner of a document requesting the document to be delivered to the owner’s client. Remarks at 9. The examiner agrees that the method of setting up content delivery may be different between the references. However, Zhu’s virtual device technique, namely providing a virtual device at the server so that ubiquitous content access is provided across diverse clients, is equally applicable to Belknap’s system for providing access to videos, thus predictably improving Belknap by providing ubiquitous access to the videos across diverse client devices. Therefore, teachings from the Zhu reference are properly combined with the Belknap reference

Applicant further argues against the combination incorporating the Duso reference, stating that Duso does not teach a web client that is separate from a media client. Remarks at 10. However, this limitation is met by Belknap, which teaches a separate web client 12 and media client 14 as described in the rejection, so the argument is unpersuasive.

Therefore, the arguments are unpersuasive and the rejections are upheld.